IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

R.S.A. No. 2400 of 2003
Date of Decision: 28.8.2006

Harchand Singh

...Appellant

Versus

Manjit Kaur

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.

PRESENT: Mr.D.R.Singla, Advocate for the appellant.

AJAY KUMAR MITTAL, J.

This regular second appeal filed by the plaintiff arises from a suit for permanent injunction restraining the defendant from alleging herself widow of Sukhwinder Singh son of Harchand Singh and also restraining her from submitting any application against the plaintiff before the police or any other office claiming herself to be widow of Sukhwinder Singh.

The facts as narrated in the plaint are that the defendant was married to Sukhwinder Singh son of the plaintiff. Sukhwinder Singh died in November, 1996. From the said wedlock two children, namely, Gurpreet Singh and Amandeep Kaur were born on 3.2.1993 and 8.7.1995, respectively and were residing with the defendant. It was pleaded that after about three months of the death of Sukhwinder Singh, the defendant solemnized second marriage with Iqbal Singh resident of village Badhate at Sanghera. It was further pleaded that the defendant had no concern with the property of the plaintiff. It was further pleaded that the defendant had no right to claim herself to be the widow of Sukhwinder Singh when she had contracted second marriage with Iqbal Singh. It was further pleaded that the

defendant in order to pressurize the plaintiff to withdraw the petition under Section 25 of the Guardian and Wards Act had been moving various false applications to the police officials.

Upon notice, the defendant filed written statement by raising various preliminary objections. The factum of marriage with the son of the plaintiff was admitted. It was also admitted that from the wedlock two children were born who were residing with the defendant. The factum of second marriage by the defendant with one Iqbal Singh was denied and a prayer for dismissal of the suit was made.

The trial court while dismissing the suit filed by the plaintiff-appellant held that the plaintiff has no right to restrain any person from moving any application before any appropriate authority and in case any false application has been filed by the defendant-respondent, the plaintiff was at liberty to take recourse to appropriate action as per law. Accordingly, the suit filed by the plaintiff was dismissed vide judgment and decree dated 4.10.2000. On appeal, the lower appellate court affirmed the finding of the trial court and dismissed the appeal vide judgment and decree dated 10.1.2003.

Learned counsel for the appellant could not show that the concurrent findings recorded by the courts below suffer from any misreading or misappreciation of evidence. No illegality or perversity could be found in the judgments and decrees passed by the courts below warranting interference by this court in the regular second appeal. No question of law, much less a substantial question of law arises in this appeal.

In view of the above, finding no merit in this appeal, the same is hereby dismissed.

August 28, 2006
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(AJAY KUMAR MITTAL)
JUDGE